

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

RANDALL McCLAIN DUGGER, #26553180 §

VS. § CIVIL ACTION NO. 5:05cv103

UNITED STATES OF AMERICA §

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge Caroline M. Craven. On July 27, 2005, Respondent filed a Response to Petitioner's Petition. On September 13, 2005, the Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition of this case.

In response to the Report, Petitioner filed a "Second Petition." After a responsive pleading has been filed, a party may amend the party's pleading only by leave of court or by written consent of the adverse party; this leave shall be freely given when justice so requires. Fed. R.Civ. P. 15(a). This Court will construe the Second Petition as a motion to amend or supplement the Petition. This Court made a *de novo* review of Petitioner's motion to amend or supplement the Petition and determined that the law applicable to the original Petition would apply to the Second Petition, and that the outcome would be the same.

This Court finds that the Magistrate Judge's findings and conclusions are correct, and adopts them as the Court's findings and conclusions. The Court therefore


ORDERS that Petitioner's motion to supplement (dkt#8) the Petition is **GRANTED**;

ORDERS, ADJUDGES, and DECREES that this action is **DISMISSED WITH**

PREJUDICE for lack of jurisdiction and **DISMISSED WITHOUT PREJUDICE** regarding all other issues; and

ORDERS that all motions not previously ruled on are denied.

SIGNED this 17th day of October, 2005.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE